



STATE OF INDIANA

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AMY STRATI, Acting Commissioner

To: Indiana General Assembly

From: Amy E. Strati, Interim Commissioner
Indiana Department of Insurance

Re: Accident and Sickness Insurance Policies
Waivers of Coverage Demonstration Project

Date: November 1, 2004 *AS*

In general, health insurance policies must provide similar benefits to everyone but can exclude coverage for a pre-existing condition for a short time. The insurance code sets out a definition of pre-existing condition as well as the length of time a policy can exclude coverage. Some insurance companies have wanted to offer policies with waivers of specific conditions, for several years or permanently. For example, a person with a back condition would receive a policy that covers everything except treatment related in any way to the back condition. The insured would not have insurance coverage for the back condition and therefore would have to pay 100% of the expenses for treatment associated with the back condition. Insurance companies assert such waivers would increase the number of persons insured. Consumers may agree to coverage with waivers because they otherwise cannot obtain any health insurance to cover health conditions or emergencies.

In 1999, the Indiana Department of Insurance (Department) issued Bulletin 96 which stated a group health insurance policy could only include a waiver of specific conditions for twelve (12) months as such a waiver was, in effect, a pre-existing condition exclusion. The Department's position was the subject of litigation. In 2001, Indiana courts upheld the Department's position. *Golden Rule Ins. Co v. McCarty*, 755 N.E.2d 1104 (Ind. Ct. App. 2001; trans. denied Mar 8, 2002). Thereafter, in 2003, the Indiana General Assembly passed SEA 341 (PL 211-2003), which allows companies to issue waivers for up to two (2) years. The legislation is meant to determine if waivers increase the number of persons insured.

Health insurance policies are available in the form of individual or group policies. IC 27-8-5-2.5(e) allows insurance companies writing certain individual policies to issue policies through July 1, 2005, that include a two (2) year waiver. On August 22, 2003, the Department issued Bulletin 121 directing any insurer issuing individual policies to notify the Department if the insurer intended to issue waivers as provided by IC 27-8-5-

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2.5. The Department did not receive such notification from any insurer. The Department is not aware of an insurer issuing individual accident and sickness insurance policies with waivers for preexisting conditions as contemplated by IC 27-8-5-2.5, as amended by PL 211-2003.

IC 27-8-5-19.2 directs the Department to institute a demonstration project on waivers in group policies. The Department selected three (3) insurers for the demonstration project: UNICARE Life and Health Insurance Company; Continental General Insurance Company; and Central Reserve Life Insurance Company. These insurers were authorized to issue certain association or discretionary group accident and sickness policies with waivers for preexisting conditions for policies issued on or after June 30, 2003, and before July 1, 2005.

Each insurer participating in the demonstration project submitted a report to the Department as required by Section 10 of PL 211-2003. The reporting period covers July 1, 2003 through June 30, 2004. The insurers will file additional reports August 1st of 2005, 2006 and 2007. Each insurer's report is attached hereto. The following is a summary of the aggregate results.

1. One hundred three (103) waivers of coverage were issued in Indiana.
2. Three conditions were most often subject to the waiver. These conditions are: allergies, acne, and migraines.
3. Nearly all of the waivers were for two (2) years, the maximum amount of time allowed under the demonstration project.
4. The insurers declined coverage to eight hundred eighty-five (885) applicants because of a specified condition for which a waiver of two (2) years did not change the insurer's underwriting decision.
5. There were no requests for external review of the waiver.

The Department refrains from making any conclusion from the reports of one (1) year of this multi-year study. Follow up reports will be filed as required by PL 211-2003. A conclusion will accompany the final report.